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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,155	12/23/2005	Johann Doppstadt	P70997USD	6582
136 7590 07/29/2009 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			EXAMINER KUMAR, KALYANAVENKA K	
			ART UNIT 3653	PAPER NUMBER
			MAIL DATE 07/20/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/562,155

**Applicant(s)**

DOPPSTADT ET AL.

**Examiner**KALYANAVENKATESHWAR  
KUMAR**Art Unit**

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26 and 28-52 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 26 and 28-52 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 26 and 28-52 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The new claim limitation in claim 26 lines 4-5, "a feeding hopper located on a side of the screening drum and above at least a part of the screening drums," are not properly described in the application as filed. Specifically, the limitation of the feeding hopper located above at least a part of the screening drums.

Where is it stated or shown that the feeding hopper is located above at least a part of the screening drums?

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 26 and 28-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Regarding claim 26, the claim recites, "a feeding hopper located on a side of the screening drum and above at least a part of the screening drums," is unclear. Does this mean that a least a part of the upper most portion of the feeding hopper is above the upper most portion of the screening drum? Does this mean that at least some portion of the feeding hopper is above at least some portion of the screening drum?

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 26 and 28-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Dube et al. ("Dube") (U.S. Publication 2002/0056668 with citations to US Patent 6,843,376)** in view of **Kuhmonen (US 5,248,042)** **McLean (US 2,055,630)**, **Davis (US 6,318,560)**, and **Paladin (US 6,986,425)**.

9. Regarding claims 26 and 28-52, as best understood by the Examiner, Dube (Fig. 1-8) teaches a trommel screen machine, comprising at least one revolving screening drum (13), at least one drive (Fig. 2 showing common drive M for the screening drum and the disc screen), a feeding hopper (35; col. 7; see Fig. 2) located on a side of the screening drum and above at least a part of the screening drums, at least one disc screen (col. 8 teaching disc screen 11 shown as "on" and adapted to the hopper 45 at an angle alpha in fig. 2 with fig. 4 showing replacement vibrator screen and fig. 5 showing at least two driven shafts with comb-like discs), at least one collecting device and transport device (showing transport chute at end of screen and pivotal transport conveyor 51 in fig. 3), a second collecting and transport device (55, paragraph 0049), and a conveying device for receipt of oversized particles moving in a second direction from the screening drum and the disc screen, said second direction being opposite to said first direction (paragraph 0049, Figs. 1-3). Further, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the second collecting and transport device for receipt of goods based on size of openings of the screening drum.

10. Dube as set forth above teaches all that is claimed except for expressly teaching that the disc or vibrating screen is capable of being folded or turned away and that at least one adjusting device is provided by means of which the angle (alpha) of the disc screen is adjustable, wherein the disc screen comprises various features, such as direct

drive, polygon discs, exchangeable discs with clamps, discs with at least one exchangeable perimeter nap of different shapes. These features, however, are well-known in the disc screening arts. Here, it is noted that Dube already teaches the essence of Applicant's invention--the use of an initial disc screen prior to a drum screen, thus the replacement of the disc screen with other well known types of disc screens can merely be regarded as an obvious modification. For instance, Kuhmonen teaches that it is known to prescreen material before feeding the material to screening drum through a feeding hopper, and, therefore have a screening mechanism before the feeding hopper for the purpose of removing large debris (col. 1, lines 24-37) from the processing stream Mclean teaches that an adjustable (i.e., turnable) disc with direct drive shafts is quite old in the art (Fig. 1-8), Davis teaches that disc screens with replaceable shafts with different shapes and spacing of discs is well known (Fig. 1-8; Abstract) and Paladin further teaches that adjustable disc screens with different shapes is well known (Fig. 1-15). Moreover, it would be obvious to one with ordinary skill in the art to modify the base reference with these prior art teachings to arrive at the claimed invention. The rationale for this obviousness determination can be found in the prior art itself as Dube expressly teaches the replacement of the respective screens with any other type of well-known screen (col. 8) as it is a well known in the screening arts to adjust the angle and type of screen based on the objects to be screened. Further, the modification to arrive at the claimed invention would merely involve the substitution/addition of well-known elements with no change in their respective functions (i.e., screen). Moreover, the use of prior art elements according to their functions is a predictable variation that would yield

predictable results, and thus cannot be regarded as a non-obvious modification when the modification is already commonly implemented in the prior art. Further, the prior art discussed and cited demonstrates the level of sophistication of one with ordinary skill in the art and that these modifications would be well within this skill level. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Dube for the reasons set forth above.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 26 and 28-52 have been considered but are moot in view of the new ground(s) of rejection.

12. Regarding Applicant's argument, "The reference M in Figure 2, however, does not allow the deduction that a common drive for the drum screen and the disc screen is disclosed," the Examiner points the rejection above, specifically, Mclean teaches that an adjustable (i.e., turnable) disc with direct drive shafts is quite old in the art (Fig. 1-8).

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kalyan Kumar whose telephone number is 571-272-8102. The examiner can normally be reached on Mon-Fri 7:00AM-3:30PM.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on 571-272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick H. Mackey/  
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Examiner

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